

## **VOIR DIRE QUESTIONS**

**UNITED STATES OF AMERICA v. HOWARD MITCHELL ALPERIN**

### **BACKGROUND**

HAVE EACH OF THE \_\_\_\_ PROSPECTIVE JURORS ANSWER  
ALoud THE GENERAL BACKGROUND QUESTIONS ON THE SHEET  
THAT HAS BEEN HANDED OUT.

1. Please state your name:
  
2. Please state the city in which you live:
  - a. How long have you lived there:
  - b. Where else have you lived in the past 5 years.
  
3. What is your current occupation:
  - a. How long have you been so employed:
  - b. What are your previous occupations, if any?

4. Please give us the following information about your family:

a. Are you married:

1. If so, what is your spouse's current  
occupation and by whom is the spouse employed?

b. Do you have any children?

If so:

1. How many?

2. What ages?

3. What are their occupations, if any?

### **PREVIOUS LAWSUITS/JUROR SERVICE**

If any of you would answer yes to any of these questions, please raise your hand.

During the past five years, have any of you served on a jury or  
been excluded from a jury?

Was it a civil or a criminal case?

If civil, what, in general, was the case about?

Without telling me the outcome, or who won, please tell me whether or not the jury reached a verdict.

Will you be able to put aside your prior jury experience as you sit in this case, to ignore completely anything you learned about the law or evidence in those cases, and decide this case solely on the basis of the evidence that I admit during this trial and on the law as I instruct you in it?

There is a substantial difference between the burden of proof in a criminal trial and the burden of proof in a civil trial.

In a civil trial, the plaintiff must prove all of the essential facts by a preponderance of the evidence, which means that a jury can find for a plaintiff if the weight of the evidence favors plaintiff even slightly. In a criminal trial however, the

prosecution must prove all the essential facts beyond a reasonable doubt - a higher evidentiary standard. While I will provide further instructions later, for now I will tell you that proof beyond a reasonable doubt is proof that leaves you firmly convinced that the defendant is guilty. If after a careful and impartial consideration of all the evidence, you are not convinced beyond a reasonable doubt that the defendant is guilty, it is your duty to find the defendant not guilty.

Do any of you think you would have any difficulty in applying the beyond a reasonable doubt evidence standard in this criminal action?

Have you, or has anyone in your immediate family, been a party (either as a plaintiff or as a defendant) to any lawsuit, civil or criminal? If so, please raise your hand.

If so, who (you or a family member) was the party to the case?

Was the person a plaintiff or a defendant?

What was the nature of the case?

Was it tried by jury? Outcome?

Is there anything about that experience that would cause you to question your ability to decide this case fairly and impartially, only on the basis of the evidence I admit during this trial and the law as I instruct you in it?

Have any of you ever been a witness in state or federal court in any lawsuit, civil or criminal? Raise Hand.

For which party did you testify?

What was the nature of the case?

Is there anything about that experience that would cause you to question your ability to decide this case fairly and impartially, solely on the basis of the evidence I admit during this trial and

the law as I instruct you in it?

## **LAWS GENERALLY**

Have you, or has anyone in your immediate family, attended law school or had any other training in the law?

If so, will you put whatever knowledge of the law you may have acquired before today out of your mind during this trial, and will you promise to apply only those legal principles in which I instruct you?

## **Law Enforcement**

Have any of you ever worked for the United States Customs Service or known anyone who worked for the Customs Service? If so, who? When? Where? What did the person do?

Have any of you ever had a negative experience with a Customs

Service employee?

If a U.S. Customs Inspector and a citizen gave different accounts of the same event, do any of you think you would be more likely to believe the Customs Inspector?

Do any of you have any particular feelings about Customs Inspectors or the Customs Service which may effect your ability to serve as a fair and impartial juror in this case? If so, please describe those feelings.

Have any of you ever worked for any other law enforcement agency or known anyone who worked in law enforcement? If so, who? When? Where? What did the person do?

Have any of you or anyone close to you ever been arrested? If yes, who was arrested? Describe the incident(s). How do you feel you or the person involved was treated by the police?

Have any of you ever been the victim of what you thought was law enforcement harassment, brutality or other police misconduct?

Have any of you or anyone close to you ever made a complaint against a law enforcement officer or against a police department? If so, what was the nature of the complaint?

Do any of you have any particular feelings about law enforcement in general which may affect your ability to serve as a fair and impartial juror in this case? If so, please describe those feelings.

#### CLOSING QUESTIONS

Is there anyone who would feel any reluctance in joining the discussion with the members of the jury during deliberations?

Is there anyone who would feel offended if other members of the jury disagreed with his or her view of the evidence?

It is your duty as a juror to listen to the opinions and points of view of



the other members of the jury. Would any of you be unwilling to listen to a fellow juror who disagreed with you?

It is also your duty as a juror to express your opinion or point of view regarding the evidence to the other members of the jury. Is there anyone who would be unwilling to speak up and try to persuade other members of the jury who disagreed with your view of the evidence?

Is there anyone who would be unwilling to change an opinion if, after listening to the arguments of the other members of the jury, you were persuaded that your opinion was wrong?

In a trial the prosecutor puts on its evidence first, and then the defendant has the opportunity to put on his evidence. Do any of you think you might have difficulty keeping an open mind regarding this case until you have heard all the evidence and I have instructed you on the law?

If you are selected to sit as a juror, will you be able and willing to render a verdict solely on the evidence presented at the trial and the law as I instruct you and not based upon your emotions, or any preconceived notions about the facts or the law in this case? Is there anyone who thinks he or she cannot do that?

Do you understand that you must follow my instructions regarding

the law whether you agree with the law or not? If that idea troubles you, please let me know.

As a juror, you may have to resolve conflicts in the testimony of witnesses. This means you may have to decide whether to believe or reject all or part of a witness's testimony or who is telling the truth. Is there any juror who feel this is not something he or she can do?

Can you think of any experience in your life or any other matter which occurs to you now that you think you should bring to my attention because it may have some bearing on your ability to be fair as a juror in this case?

From what you have heard about this case thus far, is there anything that causes any of you to believe that you cannot be fair and impartial as a juror in this case?

Is there anything which has happened here this morning which any of you think may affect your ability to be fair and impartial to the parties that you have not told us about up to now?

Do you have any bias or prejudice, for or against, any of the parties or attorneys in this case?

Is there any reason at all why you can't be absolutely fair to the prosecution in this case?

Is there any reason at all why you can't be absolutely fair to the defendant in this case?

Having heard all the questions put to you, do you know of any reason why you could not sit on this jury and render a fair verdict based on the evidence presented and the legal instructions I give you?

[GIVE COUNSEL 15 MINUTES TO POSE ADDITIONAL QUESTIONS]